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February 8, 2008

Honorable Judith G. Dein
United States Magistrate Judge
United States District Court for the District of Massachusetts
John Joseph Moakley United States Courthouse
1 Courthouse Way, Courtroom 15, 5th Floor
Boston, MA 02210

Re: *Encompass Insurance Company v. Giampa, et al., No. 05-cv-1163-RCL*

Dear Judge Dein:

This letter is intended to serve as the status report that you requested the plaintiff to provide by February 11, 2008 in the above matter.

By way of background, I represent the plaintiff, Encompass Insurance Company, but I am brand new to this case. (Currently pending before the Court is a motion for leave for me to appear *pro hac vice*, together with my colleague, William McSwain.) Mr. McSwain and I, and our law firm, Drinker Biddle & Reath LLP, intend to step in for plaintiff's current counsel, Smith & Brink, P.C., which plans to withdraw its appearance once the Court rules on the *pro hac vice* motion. As you know from the emergency hearing held in front of Your Honor on December 13, 2007, plaintiff's lead attorney, Richard King of Smith & Brink, was physically incapacitated at the time as a result of a series of vicious physical attacks. Mr. King's incapacitation led to the granting of the current stay of discovery, which is set to expire on February 11, 2008.

Given my recent introduction to the case, and given the case's complexity, I respectfully request a 90-day extension of the current stay of discovery. I have discussed this proposed extension with defendants' counsel, and they join in the request. A proposed order is attached for Your Honor's consideration.

Additionally, I respectfully request a modification of the current schedule for the exchange of expert disclosures. In accordance with Your Honor's December 13, 2007 directive, plaintiff served its expert disclosures by January 10, 2008. Defendants' expert disclosures are due today. Plaintiff and defendants jointly request an extension of this deadline. More specifically, should the Court grant the parties' joint request for a 90-day extension of the current stay of discovery, plaintiff would like to have the option, during

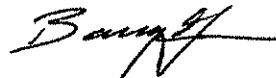
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this 90-day period, to withdraw its current expert disclosures and re-serve new disclosures by the end of the 90-day period. Similarly, counter-claimants plan to file expert disclosures related to their counterclaim, and would like to do so at the end of the 90-day period. Then, at the conclusion of this 90-day period, defendants would have an additional 30 days to serve their expert disclosures in response to plaintiff (whether in response to plaintiff's original disclosures or in response to new disclosures), and counter-defendant would have the same 30-day period to respond to counter-claimants' expert disclosures. I have discussed this proposed schedule with defendants' and counter-claimants' counsel, and they join in the request. The attached proposed order incorporates this proposed schedule.

Should the Court have any questions or concerns, the parties respectfully request a telephone conference with the Court to discuss the matter. I thank the Court for its consideration.

Respectfully,



Barry Gross

BG/mab

cc: Matthew J. Conroy, Esq. (w/ encl.)
Thomas M. Ciampa, Esq. (w/ encl.)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ENCOMPASS INSURANCE COMPANY,	:	
	:	
Plaintiff,	:	
	:	
v.	:	NO. 05-CV-11693-RCL
	:	
JOSEPH D. GIAMPA, et al.	:	
	:	
	:	
Defendants.	:	

[PROPOSED] ORDER

AND NOW, this _____ day of _____, 2008, upon consideration of Plaintiff Encompass Insurance Company's February 8, 2008 status report and the parties' joint request for 90-day extension of the current stay of discovery, it is hereby ORDERED that:

1. All fact discovery in the case is stayed for an additional 90 days, until Monday, May 12, 2008. By May 12, 2008, the plaintiff, after consultation with the other parties, shall file a status report with the Court that shall include either a joint amended discovery schedule or shall report that no agreement has been reached;

2. Plaintiff shall have the option to withdraw its expert disclosures and re-serve new expert disclosures by May 12, 2008. Defendants shall serve their expert disclosures (whether in response to plaintiff's original disclosures or in response to new disclosures) by June 11, 2008. Similarly, counter-claimants shall serve their expert disclosures by May 12, 2008, and counter-defendant shall serve its expert disclosures in response by June 11, 2008.

Honorable Judith G. Dein
United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that on this day the foregoing **Proposed Order** was filed electronically with the Clerk's Office for the U.S. District Court for the District of Massachusetts and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing. Paper copies will be sent to those indicated as non-registered within twenty-four (24) hours of this filing.

Dated: February 8, 2008.

/s/ Jonathan R. Hausner
Jonathan R. Hausner